

July 14, 2008

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

REPORT AND RECOMMENDATION

APPLICANT: Paul L. Pasquier
18313 149th Avenue SE
Renton, WA 98058

LUA-08-047, ECF, SM, CU-H

LOCATION: 3709 Lake Washington Boulevard North

SUMMARY OF REQUEST: Shoreline Conditional Use Permit and a Shoreline Substantial Development Permit for the installation of a pre-manufactured, freestanding, portable boatlift inside an existing boathouse in association with an existing single-family residence.

SUMMARY OF ACTION: Development Services Recommendation: Approve

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on June 24, 2008.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the July 1, 2008 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, July 1, 2008, at 9:02 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, proof of posting, proof of publication and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Site Plan
<u>Exhibit No. 3:</u> Boat Lift Elevations	<u>Exhibit No. 4:</u> Zoning Map
<u>Exhibit No. 5:</u> Shoreline Substantial Development Permit	

The hearing opened with a presentation of the staff report by Gerald Wasser, Associate Planner, Development Services, City of Renton, 1055 S Grady Way, Renton, Washington 98055. This project is located off the shoreline of Lake Washington at 3709 Lake Washington Boulevard North. The proposed action is the assembly and installation of a pre-manufactured marine grade aluminum freestanding portable boatlift within an existing

boathouse that is approximately 966 square feet in area. The proposed boatlift is approximately 10-feet wide by 10-feet long. The boatlift would be at a depth of approximately four feet below the ordinary high water mark. The site is located in the R-8 zone. There would be no change in the use of the property, the site including the existing single-family residence and the boathouse is 4,349 square feet. Assembly of the boatlift would take place onshore within 20-feet of Lake Washington, the assembled boatlift weighs approximately 500 pounds and rests of 4' pads that are approximately 12" by 18" and would sit directly on the lake bottom. It is not anchored to the lake bottom

The duration of the assembly is estimated at approximately 4 hours and is handled by two people. The assembled boatlift will be hand carried or floated on temporary buoys into place within the existing boathouse. All assembly and installation will take place within the construction window of July 16 through December 31, 2008.

The cost of the boatlift, \$8,300 was the cause of requiring a Shoreline Substantial Permit.

The Environmental Review Committee issued a Determination of Non-Significance, no further mitigation is necessary.

The proposed boatlift meets the City of Renton development standards and building code requirements. Only one watercraft will be maintained at this site. This boatlift is further compatible with the objectives and policies of the City's Master Program as an accessory water use to an existing residential use.

The site is not adjacent to any public shoreline and therefore, no interference with the public shoreline or its use is anticipated. This section of Lake Washington is designated as an Urban Environment and as a developed shoreline with residential uses.

Gregory Ashley, 16412 NE 10th Place, Bellevue, WA 98008 stated that he is the agent for Mr. Pasquier. This is a freestanding boatlift with a high-pressure hydraulic boat battery. It is a solar charged boatlift completely self-contained. The boatlift is designed to not leak, however the hydraulic fluid is EPA approved as biodegradable non-toxic. The boatlift is completely freestanding, there is no need to attach it or anchor it in any way. Each footpad is approximately twelve inches by eighteen inches and they are the only part of the boatlift that actually touches the lakebed. There is very little assembly required at the site, the front of the boathouse opening is approximately 13 feet wide. Two men will do the installation, they will use hand tools only, place the boatlift in the water, float it around into the boathouse and then lower it in place and adjust it.

Kayren Kittrick, Development Services requested that they call for a locate, there is a sanitary sewer in the shoreline at that area. There should be no problems, as the sewer line currently runs under the boathouse. It is necessary to know exactly where that line runs under the boathouse, they need to beware and lower the pads carefully.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:21 a.m.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Paul L. Pasquier, filed a request for a Shoreline Conditional Use Permit and a Shoreline Substantial Development Permit.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The subject site is located at 3709 Lake Washington Boulevard North. The parcel is located on the shoreline of Lake Washington.
4. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of single-family homes, but does not mandate such development without consideration of other policies of the Plan.
5. The subject site is currently zoned R-8 (Single Family - 8 dwelling units/acre).
6. The subject site was annexed to the City with the adoption of Ordinance 1804 enacted in December 1959.
7. A single family home is located on the subject site. Associated with the residence are an approximately 272 square foot pier and an approximately 966 square foot boathouse.
8. The applicant proposes installing an approximately 10 foot by 10 foot, freestanding boatlift inside the existing boathouse.
9. The boatlift is pre-manufactured and made of marine grade aluminum. It weights approximately 500 pounds. A small crew will do the assembly and installation. It will be assembled onsite and then floated to the installation location in the boathouse. Assembly and installation generally takes a few hours.
10. The lift will not be anchored to the lakebed. The weight of the lift will keep it anchored in place.
11. The lift uses EPA certified hydraulic materials, which are non-hazardous agents so even if a leak or spill occurred there would be no harm to the lake or fish. A solar powered battery will generate power for the lift operation.
12. The installation will be limited to a time frame or construction window between July 16 and December 31, 2008. This will prevent the installation from interfering with fish runs in the lake.
13. There will be no changes made to the uplands. The boatlift will be entirely contained in the existing boathouse so there will be no changes to view corridors or the profiles of any buildings. No temporary work sheds will be required. No trees or landscaping should be disturbed by the proposal.
14. A sewer line runs offshore past this location and the applicant's team should investigate its location before proceeding.

CONCLUSIONS:

1. There are five main criteria and a number of sub-criteria that must be satisfied before a Shoreline

Conditional Use Permit may be issued. The main criteria are found in Section 4-9-190(I):

1. The use must be compatible with other permitted uses within that area.
2. The use will not interfere with the public use of public shorelines.
3. Design of the site will be compatible with the surroundings and the City's Master Program.
4. The use shall be in harmony with the general purpose and intent of the City's Master Program.
5. The use meets the conditional use criteria in WAC 173-27-160.

The additional criteria are found in:

“WAC 173-27-160 Review criteria for conditional use permits. The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

- (1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - (a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - (b) That the proposed use will not interfere with the normal public use of public shorelines;
 - (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 - (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - (e) That the public interest suffers no substantial detrimental effect.
- (2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- (3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the

requirements for conditional uses contained in the master program.

(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section."

2. The proposed boatlift is consistent with the policies of the Shoreline Management Act. Single family homes and accessory structures such as docks and the occasional boathouse and lift are permitted along the shoreline and over the lake. The waterfront along this portion of Lake Washington is currently developed with residential water-related uses.
3. The proposed boatlift will be contained within an existing boathouse along a section of privately owned shoreline. Therefore, it will not interfere with the public use of public shorelines anymore than already occurs.
4. Again, the boatlift will be inside an existing boathouse. There will be no design changes to the exterior or profile of the dock or boathouse and it should remain compatible with the surrounding uses.
5. The freestanding residential boatlift will not be attached to the lakebed and its four legs should not interfere with fisheries. The mechanism is equipped with non-hazardous hydraulic materials so accidental leaks should not impair the water quality. It will be installed during an appropriate window to not interfere with fish migration or passage.
6. Since there will be no exterior changes over the water or on the uplands, the proposal appears to be in harmony with the Master Plan.
7. In addition to the above criteria, the proposal has to be consistent with the criteria in WAC 173-27-160. Some of these criteria match or are very similar to those already discussed. The proposed, boathouse-contained boatlift is consistent with the urban shoreline represented by this site. It appears to "do no harm" to the shoreline, the lake or public access to the lake or shoreline. The proposed inside boatlift will not interfere with the normal public use of public shoreline. There is already a pier and boathouse in this location so there will be no additional interference with normal uses of the shoreline.
8. The proposed use is compatible with the residential uses both at the subject site and on neighboring parcels. Docks and piers are permitted. The boathouse already exists and will not be expanded. A boatlift contained within the existing boathouse is compatible in design and use to the adjacent lakefront residential properties. As noted, the boatlift will merely sit on the lakebed and not be anchored. It presents a very narrow profile or impediment to fish passage. Its lift mechanism will be solar powered and non-hazardous. There should be no significant adverse effects to the shoreline environment. While a proliferation of docks and piers can have a cumulative impact, the installation of a boatlift inside an existing boathouse does not appear to create any unnecessary problems.
9. Finally, the use is not a prohibited use and may be authorized and it does not appear that it would create substantial detrimental effects on the public interests.
10. As noted at the Public Hearing, this decision is treated as a recommendation to the Department of Ecology. That agency will take further action as necessary.

DECISION:

The Shoreline Conditional Use Permit is approved subject to the following conditions

1. The applicant shall abide by all other State and Federal mandates on when installation shall occur and materials used in the facility.

2. The applicant shall install the boatlift reviewed by staff containing the non-hazardous materials and solar powered system.

The Shoreline Substantial Development Permit is approved.

ORDERED THIS 14th day of July 2008.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 14th day of July 2008 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Marty Wine, Assistant CAO	Transportation Division
Gregg Zimmerman, PBPW Administrator	Utilities Division
Alex Pietsch, Economic Development	Neil Watts, Development Services
Jennifer Henning, Development Services	Janet Conklin, Development Services
Stacy Tucker, Development Services	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., July 28, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., July 28, 2008.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

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The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.